

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LAVITA MORRIS Claimant TRANS TECH SERVICES INC Employer	<div>68-0157 (9-06) - 3091078 - EI</div> <div>APPEAL NO. 11A-UI-10442-VST ADMINISTRATIVE LAW JUDGE DECISION</div> <div>OC:07/03/11 Claimant: Appellant (5)</div>
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Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated August 5, 2011, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 30, 2011. The claimant participated. The employer participated by Susan Ray, owner. The record consists of the testimony of Lavita Morris and the testimony of Susan Ray. Official notice is taken of agency records.

ISSUE:

Whether the claimant is eligible for partial unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer contracts with clinics and small hospitals to provide medical transcription. The claimant was initially hired in October 2008. She was a full-time employee at that time. In April 2009, the claimant went to regular part-time status and in September 2009 to limited part-time status. The claimant's status was changed at the claimant's request. Limited part-time status means "as needed" or p.r.n. The claimant works when transcription is available from the medical providers that are assigned to the claimant.

The claimant established a claim for unemployment insurance benefits with an original claim date of July 3, 2011. The claimant's base period wages consist solely of wages earned from the employer while in the limited part-time or as-needed status.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3.

871 IAC 24.22(2)i(3) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market....

i. On-call workers.

(3) An individual whose wage credits earned in the base period of the claim consist exclusively of wage credits by performing on-call work, such as a banquet worker, railway worker, substitute school teacher or any other individual whose work is solely on-call work during the base period, is not considered an unemployed individual within the meaning of Iowa Code section 96.19(38)"a" and "b."

Based on the unemployment insurance rule cited above, the claimant is not qualified to receive unemployment insurance benefits, because her base-period wage credits consist exclusively of wage credits by performing on-call work.

DECISION:

The decision of the representative dated August 5, 2011, reference 01, is modified without effect. The claimant is disqualified from receiving unemployment insurance benefits, because she does not meet the law's definition of an unemployed worker

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw